

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Toby Baker, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

April 25, 2019

The Honorable Senator Carol Alvarado
Texas Senate
P.O. Box 12068
Austin, Texas 78711-2068

Dear Senator Alvarado:

Thank you for your letter concerning the penalties to be sought against Intercontinental Terminals Company (ITC) in connection with the environmental impacts of the fire that began at ITC's Deer Park tank battery on March 17, 2019. I share your sense of the seriousness of this event, particularly regarding its impacts on neighboring communities and the environment.

Currently, the Texas Commission on Environmental Quality's (TCEQ) emergency response activities are continuing on a 24-hour basis in conjunction with its federal, state and local partners. For example, the TCEQ continues to conduct air and surface water quality monitoring while the County Fire Marshall and the Chemical Safety Board conduct investigations within their respective jurisdictions. Consequently, TCEQ's investigation of environmental violations and the full scope of remedies are subject to further development.

We do know, however, that the State will have multiple claims against ITC under statutes within TCEQ's jurisdiction. In addition to seeking appropriate injunctive relief, the State will assert claims for natural resource damages, cost recovery, and civil penalties. And as you know, TCEQ has already referred this matter to the Office of the Attorney General and the Attorney General has filed suit seeking civil penalties for violations of the Texas Clean Air Act, the Texas Water Code, and the Texas Solid Waste Disposal Act.

It is our experience and expectation that the Attorney General will pursue these claims in close consultation with TCEQ. That includes consultation about the appropriate penalty. I intend to see that ITC is held accountable and that the State recovers in full measure on all claims—including civil penalties. I am confident the Attorney General's Office shares that objective.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jon Niermann", followed by a horizontal line.

Jon Niermann, Chairman
Texas Commission on Environmental Quality